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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

TIBBITS.P

ART UNIT

PAPER NUMBER

2838

DATE MAILED:

05/23/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/782,539

Applicant(s)

Brotto et al.

Examiner

Pla Tibbits

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-32 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirements.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

This Office action is in answer to the continuation application filed February 13, 2001.

Specification

1. The abstract of the disclosure is objected to because the abstract needs to be rewritten to reflect the elected claims, 25-32. Correction is required. See MPEP § 608.01(b).
2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed, i.e., there are no claims reciting a method for obtaining product use information. The following title is suggested: ---Power tool with memory---.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauer [4636961].

Bauer discloses a control circuit for a **power tool** which includes a data input device for entering information concerning the kind of material to be treated and other information relevant to the operation of the tool. The selected binary coded address word is applied to addressing inputs of a read only **memory** storing control words for a controlling device for a motor of the tool. Part of the bits of a control word outputted from the **ROM** are applied to a display device which displays the desired or actual rotary speeds of the tool and/or other data selected by the input device. The input device generates binary output signals which are employed as addresses for the storage device which is preferably in the form of a **ROM** or **PROM** and the other part of the output signals from the storage device which are fed to the control

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device of the motor of the tool, corresponds to the selected input data. As a result, the optimum rotary speed of the electric motor of the tool is adjusted. At the same time, the first mentioned part of the output signal from the storage device serves for displaying the selected material, rotary speed and the like. Bauer specifically disclosed that the correlation of rotary speed value and of the control signal for the limiting of the rotary speed is programmed in the **ROM** or a programmable read only **memory (PROM)**, and that **PROM** has the advantage that it can be programmed by the user and easily reprogrammed.

5. Claims 25-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner et al.[hereinafter Wagner][5903462].

Wagner discloses a computer-implemented method and apparatus for controlling a hand-held tool, and monitoring the operating parameters of the tool. The control is embodied in intool software embedded on a processor within the tool which also communicates with remote software, i.e., a computer.

An operator can run the tool, or through the interaction of both software, operate the tool from a remote location, analyze data from a performance history recorded by the tool, and select various parameters. Repeatedly, the processor obtains an indication of the integrity of the computer code stored in the read only **memory** of the microcontroller and data stored in the nonvolatile, writable **memory** by performing a checksum on the **memory**. If a checksum test fails, the processor puts the tool into a self test fail state, which may only be exited upon cycling power to the tool. Otherwise, the processor returns the tool to an idling state. Unused **memory** is reset with single-byte opcodes. The main loop consists of three steps. In the particular embodiment shown, a watchdog timer is enabled the first time it is written to and subsequent writes clear its counter 416. The watchdog's counter must be cleared within a particular period of time, 8.192 milliseconds in this embodiment, of its last clearing or the microcontroller will reset. The next step is to process any received command bytes 418. After the processing, a checksum is performed on the microcontroller's **ROM** and the **EEPROMs** to verify the integrity of the program code 420.

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Official Notice is taken with regard to claim 28, the limitation regarding the stored information is downloadable into a computer since it is well known in the art to use a computer to optimize a process by using information stored in memory for feedback.

With regard to claim 30: the stored information comprising length of use type data, absent any criticality, is considered to be nothing more than a choice of engineering skill, because neither non-obvious nor unexpected results, i.e., results which are different in kind and not in degree from the results of the prior art, will be obtained as long as an operator will be able to optimize the parameters of the tool.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Pia Tibbits whose telephone number is (703) 308-7305. If unavailable, contact the Supervisory Patent Examiner Peter Wong whose telephone number is (703) 305-3477.


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9. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is *(703) 308-0956*.

Papers related to Technology Center 2800 applications **only** may be submitted to Technology Center 2800 by facsimile transmission. Any transmission not to be considered an official response must be clearly marked "DRAFT". The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Technology Center Fax Center number is *(703) 308-7722 or (703) 308-7724*.

PFT

May 17, 2001



Peter S. Wong
Supervisory Patent Examiner
Technology Center 2800